IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 18TH JANUARY 2007 / 28TH PAUSHA 1928

MACA.No. 936 of 2006(A)

OPMV.16/2001 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANTS/PETITIONERS
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1. ALAVIKUTTY, S/O.AHAMMEDKUTTY.

2. MYMOONA, W/O.ALAVIKUTTY.

3. RABIYA, W/O.AHAMMEDKUTTY.

4. BABY ARSHADA (MINOR).

5. MOHAMMED RASHIK (MINOR).

6. MOHAMMED AJAS (MINOR)
(MINORS REPRESENTED BY MOTHER 3RD PETITIONER RESIDING AT ANAKKAYAM AMSOM AND DESOM, (PO) PERIMBALAM).

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: 3RD RESPONDENT

UNITED INDIA INSURANCE COMPANY LTD., ARAFA BUILDING, COURT ROAD, MANJERI. (RESPONDENTS 1 AND 2 BEFORE THE TRIBUNAL ARE NOT MADE PARTIES IN THIS APPEAL, SINCE NO RELIEF IS CLAIMED AGAINST THEM).

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 18/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 936 OF 2006

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Dated this the 18th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Manjeri in O.P.(MV) 16/01. As a result of a road accident the husband of the 3rd petitioner died. He was aged 33 years at the time of the accident. The Tribunal found that he has contributed to the accident 25% and thereafter proceeded to calculate the compensation and awarded a sum of Rs.2,17,000/-. It is against that decision the claimant has preferred this appeal.

2. Heard learned counsel for the appellant. Admittedly, the deceased was a driver by profession and his owner was examined as RW2. The Tribunal rejected his evidence on the ground that they belonged to the same place. The accident had taken place in the year 2000. It is only just and reasonable to fix his monthly income at Rs.2,500/-. When it is so, after deducting 1/3rd for the personal expenses, annual dependency will be

Rs.20,000/- and applying a multiplier of 17, he is entitled to Rs.3,40,000/- as dependency compensation. The Tribunal has awarded Rs.13,000/- together under the heads of transportation, funeral expenses, loss of consortium and pain and sufferings. The deceased had minor children and no amount is awarded towards love and affection. Therefore, we feel an amount of Rs.10,000/- has to be awarded under that head. When it is so after deducting 25% from the total compensation, it would come to Rs.2,74,000/-. Therefore, the award of the Tribunal is modified and claimants are awarded a total compensation of Rs. 2,74,000/- with 7% interest on the said sum from the date of petition till realisation and the Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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